

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PORTLAND DIVISION

JEREMY L. WILSON,

Plaintiff,

v.

BCTI SCHOOL OF COMPUTERS, et al.,

Defendants.

No. 3:10-cv-00084-JE

OPINION AND ORDER

MOSMAN, J.,

On December 29, 2011, Magistrate Judge Jelderks issued his Findings and Recommendation (“F&R”) [36] in the above-captioned case recommending that: (1) this action be dismissed as to defendant BCTI for failure to prosecute; (2) a judgment be entered dismissing this action with prejudice as to defendant the Department of Education (“DOE”); and (3) a judgment be entered dismissing this action without prejudice as to defendant BCTI. Neither party filed objections.

DISCUSSION

The magistrate judge makes only recommendations to the court, to which any party may file written objections. The court is not bound by the recommendations of the magistrate judge, but retains responsibility for making the final determination. The court is generally required to make a de novo determination regarding those portions of the report or specified findings or

recommendation as to which an objection is made. 28 U.S.C. § 636(b)(1)(C). However, the court is not required to review, de novo or under any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the F&R to which no objections are addressed. *See Thomas v. Arn*, 474 U.S. 140, 149 (1985); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003). While the level of scrutiny under which I am required to review the F&R depends on whether or not objections have been filed, in either case, I am free to accept, reject, or modify any part of the F&R. 28 U.S.C. § 636(b)(1)(C).

Upon review, I ADOPT the F&R [36] as my own opinion in part. On December 28, 2010, I entered a judgment dismissing this action with prejudice as to defendant DOE [33]. Therefore, there need not be a second judgment entered against defendant DOE in this case. I agree with the remainder of Judge Jelderks' recommendation

IT IS SO ORDERED.

DATED this 31st day of January, 2012.

/s/ Michael W. Mosman
MICHAEL W. MOSMAN
United States District Court